IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 18476 of 1995

Between:

Builders Association of India, rep. by its S. Anjaneya Sarma.
Vijayawada Centre, 32-13-53/4, First Floor, Journalist Colony, Mohalirajapuram, Vijayawada.

..... PETITIONER

AND

1 The State of Andhra Pradesh Rep. by its Principal Secretary,
Revenue Department, Secretariat Buildings,
Hyderabad.
2 The Commissioner and Inspector General of Stamps and

Registration, Government of Andhra Pradesh, Exhibition

Grounds, Nampally, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus declaring the Act 21/95 amending the Indian Stamp Act 1899 in its application of the State of Andhra Pradesh is unconstitutional, arbitrary ultravires and void by issuing an appropriate writ, order or direction and pass such other order or orders.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondents: GP FOR REVENUE

The Court made the following ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the Act No. 21/95, amending the Indian Stamp Act, 1899 (for short 'the Act'), in its application in the State of Andhra Pradesh, as unconstitutional.

The facts of the case, in brief, are as follows:

It is stated by the petitioner-association that the impugned Act No. 21/1995 bringing certain amendments in Schedule 1(a) of the Indian Stamp Act, 1899 applicable in the State, is beyond the scope and ambit of Section 75 of that Act, which empowers the State Government to make Rules. In the light of the specific provision, as contained in Section 4 of the Central Act, the State Government is not entitled to pass the impugned Act incorporating certain clauses in Articles 42 and 47(A). Therefore, both the Articles are liable to be struck down as repugnant to Section 4 of the Central Act. It is further stated that it is not open to the State Legislature to incorporate certain Clauses in Articles 6, 42 and 47(A) in Schedule 1(a) and levy stamp duty on the market value at its whims and fancies, for the purpose of extracting higher revenue. It is, therefore, submitted that the impugned Act is unconstitutional, unreasonable and arbitrary and is liable to be struck down.

From a perusal of the material available on record, it is evident that this Court has not passed any interim order suspending the impugned amendment, and the same is being enforced for last 10 years. Further, it has to be observed that the Builders Association of India, Vijayawada Center alone has questioned the amendment. In

view of the fact that the amendment has already been acted upon for the last 10 years and no other organization has questioned the same, the writ petition warrants no interference.

The writ petition is accordingly dismissed. No order as to costs.

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27-01-2005

kdl

To

1 The State of Andhra Pradesh Rep. by its Principal Secretary,
Revenue Department, Secretariat Buildings,
Hyderabad.
2 The Commissioner and Inspector General of Stamps and

Registration, Government of Andhra Pradesh, Exhibition

Grounds, Nampally, Hyderabad.

3 Two C.Cs. to the Government Pleader for Revenue, High Court

of A.P., Hyderabad, (OUT).

4 Two C.D.Copies.